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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/873,094	06/01/2001	Travis J. Parry	10005949-1	3103

7590 08/14/2008  
HEWLETT-PACKARD COMPANY  
Intellectual Property Administration  
P.O. Box 272400  
Fort Collins, CO 80527-2400

EXAMINER
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CHAMPAGNE, DONALD

ART UNIT	PAPER NUMBER
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3688

MAIL DATE	DELIVERY MODE
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08/14/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/873,094	<b>Applicant(s)</b> PARRY ET AL.	
	<b>Examiner</b> Donald L. Champagne	<b>Art Unit</b> 3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☒ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Re-opening of Prosecution after filing of Appeal Brief***

1. The appeal brief filed on 16 May 2008 met the requirements of 37 CFR § 41.37, but the examiner concluded that a better rejection was possible. A new non-final rejection follows herein.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen (US006233408B1) in view of Bednarek (US006965868B1).
4. Allen teaches (independent claims 1, 10, 12, 17, 25 and 33) a method, apparatus and computer readable medium to promote the use of consumables in imaging devices including a consumption detecting device, the method comprising:

detecting consumption by the imaging device of each consumable, which reads on of individual quantities of the consumables, using the consumption detecting device (col. 3 lines 6-11 and col. 4 lines 19-36); and

generating a reward (*incentive to purchase*) when the consumption of a predefined quantity of consumable has been detected (col. 5 lines 18-26); and

basing a value of the reward on the individual quantities of each consumable detected as being consumed by the imaging device (col. 5 lines 18-26).
5. Allen does not teach that the reward is generated when a predefined collective quantity of the individual quantities of consumable product has been detected. Bednarek teaches that a reward is generated when a predefined collective quantity of the individual quantities of consumable product has been detected (*buying a designated dollar volume or quantity of*

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*products*, col. 4 lines 12-21). Under *KSR v. Teleflex* (82 USPQ 2nd 1385), the combination of Bednarek with Allen would be obvious because prior art elements are being combined according to known methods to yield predictable results. Allen teaches every feature of the claims except generating a reward when a predefined collective quantity of the individual quantities of consumable product has been detected. Allen teaches that very feature. Bednarek also teaches that the predictable result is customer loyalty (col. 4 lines 32-37).

6. For independent claim 10, *rewards for frequent shopping* reads on a reward defined by a value.
7. Allen also teaches at the citations given above claims 2, 5, 11, 13-15, 26, 29 and 36.
8. Allen also teaches claims 3, 4, 6, 19, 23, 24, 27, 28, 30, 34 and 35 (col. 6 lines 15-31); claims 5 and 29 (col. 5 lines 59-61); claim 7 (col. 6 line 26); claims 9, 22 and 32 (col. 5 lines 14-16); and claim 18 (col. 5 lines 26-28).
9. Allen does not teach (claims 8, 21 and 31) counting sheets of media in order to detect media consumption. However, Allen does teach sensing media consumption (col. 5 lines 45-47) and software to analyze media consumption (col. 5 lines 59-61). Because the device must handle media sheets individually and a count would precisely measure consumption, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to add to the teachings of Allen that the media consumption sensing and analysis be based on counting sheets of media.
10. Allen does not teach (claim 20) an embedded web server. Allen does teach automatically connecting to a web page (col. 6 line 18). Because this connection would be facilitated, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to add an embedded web server to the teachings of Allen.

### **Conclusion**

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald L Champagne whose telephone number is 571-272-6717. The examiner can normally be reached from 9:30 AM to 8 PM ET, Monday to Thursday. The examiner can also be contacted by e-mail at [donald.champagne@uspto.gov](mailto:donald.champagne@uspto.gov), and *informal* fax communications (i.e., communications not to be made of record) may be sent directly to the examiner at 571-273-6717.

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11. The examiner's supervisor, James W. Myhre, can be reached on 571-272-6722. The fax phone number for all *formal* fax communications is 571-273-8300.
12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).
13. **ABANDONMENT** – If examiner cannot by telephone verify applicant's intent to continue prosecution, the application is subject to abandonment six months after mailing of the last Office action. The agent, attorney or applicant point of contact is responsible for assuring that the Office has their telephone number. Agents and attorneys may verify their registration information including telephone number at the Office's web site, [www.uspto.gov](http://www.uspto.gov). At the top of the home page, click on Site Index. Then click on Agent & Attorney Roster in the alphabetic list, and search for your registration by your name or number.

8 August 2008

/Donald L. Champagne/  
Primary Examiner, Art Unit 3688